

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

IN RE: CENTURYLINK SALES  
PRACTICES AND SECURITIES  
LITIGATION

MDL No. 17-2795 (MJD/KMM)

This Document Relates to:  
Civil File No. 18-296 (MJD/KMM)

**DECLARATION OF MICHAEL D. BLATCHLEY IN SUPPORT OF  
PLAINTIFFS' REPLY MEMORANDUM OF LAW IN FURTHER SUPPORT OF  
PLAINTIFFS' MOTION FOR CLASS CERTIFICATION**

I, Michael D. Blatchley, declare:

1. I am a partner at the law firm of Bernstein Litowitz Berger & Grossmann LLP (“Bernstein Litowitz”) which, together with Stoll Stoll Berne Lokting & Shlachter P.C. (“Stoll Berne”), serves as Lead Counsel for Lead Plaintiff the State of Oregon by and through the Oregon State Treasurer and the Oregon Public Employee Retirement Board, on behalf of the Oregon Public Employee Retirement Fund (“Lead Plaintiff”), named Plaintiff Fernando Alberto Vildosola, as trustee for the AUFV Trust U/A/D 02/19/2009, and the proposed Class in this action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto. I submit this declaration in support of Plaintiffs’ Reply Memorandum of Law in Further Support of Plaintiffs’ Motion for Class Certification.

2. On March 5, 2020, Defendants took a Rule 30(b)(6) deposition of Lead Plaintiff. Lead Plaintiff had two representatives testify as to the topics enumerated in Defendants’ Rule 30(b)(6) deposition notice: Michael Viteri, Senior Investment Officer, Public Equities, Oregon State Treasury, was designated to testify on topics 1 through 6; and Brian DeHaan, Senior Assistant Attorney General, Oregon Department of Justice (“DOJ”), was designated to testify on topics 7 through 10. *See* Exs. L and M.

3. Among other things, Mr. Viteri provided testimony concerning his responsibility for overseeing Lead Plaintiff’s investments in CenturyLink, Inc. (“CenturyLink”) at issue here (Ex. I at 6:9-11:11; 84:18-24; 85:16-19; 168:1-20; 224:3-22), the state entities comprising Lead Plaintiff (Ex. I at 24:7-25:14; 67:12-76:19), the corrective disclosures alleged in the action (Ex. I at 46:3-15; 49:15-50:16; 186:12-187:15;

193:1-196:14), and Lead Plaintiff's knowledge of CenturyLink's sales and billing practices and customer complaints about CenturyLink's sales and billing practices (Ex. I at 188:17-191:14). As Mr. Viteri testified, Lead Plaintiff had no knowledge of any consumer protection investigation conducted by the Oregon Department of Justice ("DOJ") into CenturyLink, nor information that may have been obtained through that investigation, and Mr. Viteri personally was unaware of the investigation until being informed of its existence at the deposition. Ex. I at 206:25-211:9.

4. Mr. DeHaan provided testimony concerning, among other things, the state entities comprising Lead Plaintiff (Ex. J at 239:8-246:14) and Lead Plaintiff's supervision of the prosecution of this action (Ex. J at 271:13-273:24; 276:25-284:16). Although not designated with respect to the topic of Lead Plaintiff's knowledge of CenturyLink's sales and billing practices, Mr. DeHaan provided testimony in his personal capacity concerning the measures undertaken by the DOJ to prevent transmission of information related to the consumer protection investigation into CenturyLink to Mr. DeHaan. Ex. J at 253:22-256:21.

5. As set forth in Ex. K, Senior Assistant Attorney General Andrew Schull, who was involved in the consumer protection investigation and executed the civil investigative demand issued to CenturyLink (DX-5 at 5), confirms that no information concerning the DOJ's consumer protection investigation, including the existence of that investigation, was shared with Lead Plaintiff.

6. In connection with the settlements CenturyLink entered into with various state attorneys general to resolve investigations into its sales and billing practices,

CenturyLink agreed that it would no longer charge customers an “internet cost recovery fee,” “broadband cost recovery fee” or similar fees. *See* Ex. P (Consent Decree, *State of Washington v. CenturyLink, Inc.*) at ¶4.5; Ex. Q (Final Consent Judgment, *State of Colorado, ex. rel. Philip J. Weiser, Attorney General v. CenturyLink, Inc.*) at ¶32; Ex. R (Petition and Stipulation, *State of Minnesota v. CenturyTel, Broadband Services LLC, d/b/a CenturyLink, Inc.*) at ¶4; Ex. S (Stipulated Consent Judgment, *State of Arizona v. CenturyLink, Inc.*) at ¶18; Ex. T (Assurance of Voluntary Compliance, *In The Matter of CenturyLink, Inc.*) at ¶5.5.

7. According to internal CenturyLink documents, the “broadband cost recovery fee” was added to customer bills as a “gap closer.” Ex. U; *see also* Ex. V, CTLMNSEC00015386, at 15390 (Jennifer Martin stating that CenturyLink was “looking to size what money we could make (gap closure) by adding a new surcharge/fee . . . it is called Broadband Cost Recovery fee. It is \$0.99 monthly recurring charge that applies to all his customers.”). According to an internal CenturyLink presentation, approximately \$555 million in “price increases,” the “majority of [which took] the form of new and increased fees,” including the Broadband Cost Recovery Fee and “gap closer fire drills,” were implemented between 2012 and 2017, which had the effect of cushioning the rate of revenue decline throughout that period. Ex. W, CTLMNSEC00913462, at 913464, 913477. For example, the presentation explains that in 2015, “there were \$210M in rate increases impacting 5.8 million customers (over 80% of customer base).” Ex. W, CTLMNSEC00913462, at 913477.

8. Attached as Exhibits F through W are true and correct copies of the following documents:

- EXHIBIT F:** Rebuttal Expert Report of Michael L. Hartzmark, Ph.D., dated May 4, 2020.
- EXHIBIT G:** Excerpts of the transcript from the February 25, 2020 deposition of Michael L. Hartzmark, Ph.D.
- EXHIBIT H:** Excerpts of the transcript from the April 24, 2020 deposition of Bruce Deal.
- EXHIBIT I:** Excerpts of the transcript from the March 5, 2020 Rule 30(b)(6) deposition of Oregon, by Michael Viteri.
- EXHIBIT J:** Excerpts of the transcript from the March 5, 2020 Rule 30(b)(6) deposition of Oregon, by Brian DeHaan.
- EXHIBIT K:** Declaration of Andrew Shull, Senior Assistant Attorney General, Oregon Department of Justice, Civil Enforcement Division, dated May 5, 2020.
- EXHIBIT L:** Defendants' Amended Notice of 30(b)(6) Deposition of Lead Plaintiff The State of Oregon dated February 25, 2020.
- EXHIBIT M:** Plaintiffs' Responses and Objections to Defendants' Notice of 30(b)(6) Deposition of Lead Plaintiff the State of Oregon dated March 4, 2020.
- EXHIBIT N:** List of Decisions Rejecting *Comcast* Arguments in Certifying Section 10(b) Securities Class Actions.
- EXHIBIT O:** List of Decisions Approving Dr. Hartzmark's Out-of-Pocket Methodology at Class Certification in Section 10(b) Securities Class Actions.
- EXHIBIT P:** Consent Decree dated December 9, 2019, *State of Washington v. CenturyLink, Inc.*, No. 19-2-23452-0 SEA (Wash. Super. Ct., King Cty.).

- EXHIBIT Q:** Final Consent Judgment dated December 19, 2019, *State of Colorado, ex. rel. Philip J. Weiser, Attorney General v. CenturyLink, Inc.* (Colo. Dist. Ct., Denver Cty.).
- EXHIBIT R:** So-Ordered Petition and Stipulation dated April 18, 2020, *State of Minnesota v. CenturyTel*, No. 02-CV-17-3488 (Minn. Dist. Ct., 10th Jud. Dist., Anoka Cty.).
- EXHIBIT S:** Stipulated Consent Judgment dated February 25, 2020, *State of Arizona v. CenturyLink, Inc.*, No. CV2020-002769 (Ariz. Super. Ct., Maricopa Cty.).
- EXHIBIT T:** Assurance of Voluntary Compliance dated December 31, 2020, *In the Matter of: CenturyLink, Inc.*, No. 19CV56401 (Or. Cir. Ct., Multnomah Cty.).
- EXHIBIT U:** May 6, 2015 Email from Jennifer M. Martin to Lorna Christian, Bates-stamped CTLMNSEC00015392-15396.
- EXHIBIT V:** February 13, 2013 Email from Andrew J. Smith to Isaac D. Roos and Maura P. Travis, Bates-stamped CTLMNSEC00015388-15391.
- EXHIBIT W:** August 20, 2017 Email from Maxine Moreau to David Cole with a presentation titled, "Consumer Journey", Bates-stamped CTLMNSEC00913462-480.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 4<sup>th</sup> day of May, 2020.

**BERNSTEIN LITOWITZ BERGER &  
GROSSMANN LLP**

By: /s/ Michael D. Blatchley

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